(1)

C.S. 1002

(3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.NO. 3295 /2004

PETITIONER: Dr. Ram Swoyamber Tripathi
S/O Dr. Balmik Prasad Tripathi
Aged about 60 Years,
R/O E-3 Krishak Nagar
Tehsil & Distt. Raipur [C.G.]

VERSUS

RESPONDENTS: [1]Indira Gandhi Krishi Vishavidhalay
Through Registrar
Krishak nagar, Raipur.
[Chhattisgarh].

336-9/04
Presented by Shri N. P. Nigam
dated 20-9-04

[2]Board of Management
Through Secretary
Indira Gandhi Krishi Vishavidhalaya
Krishak nagar, Raipur.
[Chhattisgarh].

[3] Vice Chancellor
Indira Gandhi Krishi Vishavidhalaya
Krishak nagar, Raipur.
[Chhattisgarh].

FD. COPY
20/9/04
Bilaspur

[4] State Of Chattisgarh
Through Secreatry .
Department Of Agriculture
D.K.S Bhawan
Raipur. [Chhattisgarh.]

[5] Indian Council For Agricultural Reserach
Through Secreatry,
Krishi Bhawan, Dr. Rajendra Prasad Marg
New Delhi.

[6] Academic Council
Through Secreatry
Indira Gandhi Krishi Vishavidhalaya
Krishak nagar,
Raipur.[Chhattisgarh]

WRIT PETITION UNDER ARTICLE 226 / 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MANDAMUS, CERTIORARI ETC OR ANY OTHER DIRECTIONS OR ORDER TO DO JUSTICE IN THE MATTER.

DETAILS OF THE PETITION

(192)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..W.P.No.3295/..... **सन् 2004**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

19.07.2005

Mr. Sunil Ottwani, learned counsel for the petitioner.

Mr. B.D. Guru, learned counsel for respondents 1, 2, 3 & 6.

Mr. Pankaj Shrivastava, learned Panel Lawyer for the State of Chhattisgarh.

Mr. S.K. Beriwal, learned Central Government counsel for respondent No.5.

The present petition filed under Article 226/227 of the Constitution of India impugns the order dated 18.08.2004 (Annexure P-1) whereby the petitioner has been transferred from the post of Professor and HOD, Department of Agronomy, College of Agriculture, Raipur to Shaheed Gundadhur College of Agriculture and Research Station, Kumhrawand, Jagdalpur as Acting Dean.

Learned counsel for the petitioner submits that the petitioner was appointed as Professor / Senior Scientist in 1985 at Varasivani and transferred to Zonal Agriculture Station at Jagdalpur in 1986 by Jawaharlal Nehru Krishi Vishwavidyala, Jabalpur. In the year 1987 the present University i.e. Indira Gandhi Agriculture University came into existence under provisions of Indira Gandhi Agriculture University Act, 1987. The petitioner was working as Professor and HOD, Department of Agronomy, College of Agriculture, Raipur on a pay scale of Rs.16,400-22,400 (Annexure P-4). By the impugned order, the petitioner was transferred to Shaheed Gundhadhur College of Agriculture and Research Station, Kumharawand, Jagdalpur. The petitioner has stated that in the said College there is no post of Professor which carries the pay scale of Rs.16,400-

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SP/FS/..

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No.3295/..... सन् 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश –2–	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

22,400 in the Department of Agronomy. It is evident from Annexure P-8 that there is a post of Dean carrying the same pay scale and 6 posts of Senior Scientists at the pay scale of Rs.12,000-18,300 in various subjects. The petitioner contends that the impugned transfer order is bad as it amounts to reversion from the post of Professor. The petitioner further contends that the impugned order indicates that the petitioner was transferred to the post of Acting Dean and there is no substantive post of Acting Dean as such this transfer order is bad. During the pendency of this petition, the respondents University has passed an order dated 18.07.2005 appointing Dr. S.K. Patil, Chief Scientist, AICRP for Dry Land Agriculture, Bastar as Dean in the S.G. College of Agriculture and Research Station, Jadgalpur. The respondents University has not passed any order about posting of the petitioner as to whether he joined his original place of posting at College of Agriculture, Raipur in the Department of Agronomy or he is transferred to any other place.

Learned counsel appearing for respondents University submits that there is no post of Professor in the Department of Agronomy in Shaheed Gundhadhur College of Agriculture and Research Station, Kumharawand, Jagdalpur, However, in order to protect his salary and other benefits, the post of Professor with the same pay scale may be transferred to Shaheed Gundhadhur College of Agriculture and Research Station, Kumharawand, Jagdalpur. Learned counsel for the respondents University is not in a position to justify the impugned order dated 18.08.2004.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. No. 3295/ सन् 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Learned counsel for the petitioner submits that the petitioner could not join the new transferred place of posting as there was no post of Professor in Agronomy. The respondent has not passed any order for joining in other place where the post of Professor in Agronomy was available. It is stated by the learned counsel for the petitioner that the petitioner has not been paid any salary from the date of the impugned transfer order till date. In reply, the leaned counsel for the respondents submits that the petitioner was not paid salary because the petitioner had not joined the place of posting. During pendency of writ petition, as an interim measure, status quo as it existed on 28.09.2004 was passed by this Court. Learned counsel for the respondents submits on 28.09.2004, the petitioner was relieved before the order dated 28.09.2004 was passed by this Court. The facts, with regard to status quo granted on 28.09.2004, are disputed as such the petitioner is granted liberty to make representation and the respondents are directed to consider the same sympathetically in accordance with law, within a period of one month from the date of making of representation, if any. The respondents University is at liberty to pass any order of transfer keeping in view of administrative exigency of the University. After having considered the arguments of all the parties and perusing records of the case, it is evident that the petitioner was transferred not as Professor but as Acting Dean without there being any substantive post of Acting Dean. Admittedly, there is no post of Professor in Agronomy in Shaheed Gundhadhur College of	

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मामला क्रमांक ..W.P.No.3295/..... **सन् 2004**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Agriculture and Research Station, Kumharawand, Jagdalpur. Thus, the order dated 18.08.2004 is vitiated and the same has been passed in malafide exercise of powers. Accordingly, the order dated 18.08.2004 is quashed and the writ petition is allowed. No order as to costs.	Sd/- Satish K. Agnihotri Judge
Sarma		